

**Probate Conservatorship Task Force  
Business Meeting**

**Costa Mesa, California  
November 28, 2006**

**Minutes**

**Task Force Members Present:** Hon. Roger W. Boren (*Chair*), Hon. S. William Abel, Hon. Aviva K. Bobb, Ms. Michelle Williams Court, Hon. Don Edward Green, Hon. Frederick Paul Horn, Hon. Laurence Donald Kay (Ret.), Ms. Gina L. Klee, Hon. William H. Kronberger, Dr. Margaret Little, Ms. Margaret Lodise, Hon. Sandra Lynn Margulies, Hon. Barbara J. Miller, Hon. Douglas P. Miller, Ms. Jacquie Paige, Mr. Alan Slater, Ms. Pat Sweeten, and Mr. Alfredo Terrazas

**Task Force Members Not Present:**, Ms. Judith Chinello, Hon. Donna J. Hitchens, Hon. Steven E. Jahr, Ms. Patricia L. McGinnis, Mr. Richard Narver, Ms. Sandy Sanfilippo, and Ms. Gloria Ochoa

**Task Force Staff:** Chris Patton, (*Lead*), Althea Lowe-Thomas, Douglas C. Miller, Dan Pone, Susan Reeves, and Evyn Shomer

**Item 1            Welcome and Introduction of Members**

Justice Roger Boren, Chair, called the meeting to order and welcomed task force members. Introductions were made, the agenda for the day was reviewed, and the minutes from the October 13 meeting were approved.

Two individuals, Ms. Sally Graham of the Professional Fiduciary Association of California, and Mr. Emanuel Patrascu of State Senator Tom Harman's office (35th District – Orange County) attended the meeting as visitors. Laura Moiré, M.D., American College of Emergency Physicians and elder advocate, and Eric M. Neshanian, Esq. of Santa Ana, attended to provide comments to the task force (see Item 2).

**Item 2            Public Comments**

Laura Moiré, M.D., stated that she was a Board Certified Emergency Physician and founding member of the Geriatric Section of the American College of Emergency Physicians. She spoke of alleged corruption of the probate conservatorship system in California, and asserted that it failed to protect her elderly relative from a powerful and unethical conservator who defrauded her trust accounts and caused her physical abuse. Dr. Moiré stated that a wrongful death action is currently pending in Los Angeles.

Dr. Moiré recommended a number of improvements to the current probate conservatorship system:

- Drastically reduce the power of court appointed professional conservators.
- Conservators of persons should be different from conservators of estates.
- Conservators of persons should have medical training.
- Conservators of estates should be college graduates who have demonstrated ability to manage finances and real property.
- In cases of physical or financial elder abuse, a complaint by a licensed medical doctor or psychologist against a professional conservator, Probate Volunteer Panel (PVP), or other custodial care giver or institution should result in immediate suspension of powers and transfer of conservatee, their finances, and property to a new conservator.
- Conservatees financial and medical records should be available for inspection by family members at all times.
- Professional conservators should make timely reports to the court and conservatees family or be removed.
- Professional conservators should be compensated at a flat or hourly rate for services, not at a percentage of the estate.
- A Special State Prosecutor should be funded/appointed to investigate and prosecute valid complaints of elder physical and financial abuse.
- Probate courts and judges should be separate from conservatorship courts and judges.
- A conservatee must have the right to change his or her mind and verbally request and obtain extraordinary life support in contravention of any prior written designation to withhold such care.

Eric M. Neshanian, a Santa Ana attorney, briefly spoke to the task force of the need for the Register of Actions to be uniform and predictable across all counties in the state.

### **Item 3            Rules and Laws Working Group**

Working Group lead, Alan Slater, directed the task force to the comprehensive summaries and comparisons of the existing vs. new probate conservatorship laws prepared by Dan Pone of the Office of Governmental Affairs. Dan reported on the funding status of the new legislation. A detailed fiscal analysis was prepared, and a budget change proposal was submitted to the Department of Finance. Requested funding (approximately \$17 million first year, \$15 million ongoing) was approved on a two-year limited term basis pending revision for actual costs. It is anticipated that the budget change proposal will be part of the Governor's budget that will be released in January 2007, and then will be negotiated through the legislative process in the hope of securing the funds for the start of Fiscal Year 2007-2008.

### **Item 4            Report on Court Conservatorship Survey**

Dag MacLeod, Manager of the AOC's Office of Court Research, gave a high level overview of the data available from the recent conservatorship survey. Last year caseload data was available

from only 20 courts (out of 58 in the state). From that data, a projection was made that approximately 31,000 permanent conservatorship cases were under court control (active conservatorships where the conservatee is living) statewide, with 8,000 new filings per year. For comparison, currently 2006 data is available from 56 out of 58 courts, and the cases under court control figure appears to be closer to 38,700, with 5,600 new filings per year. Average permanent conservatorship case life span is estimated at between 7-8 years per case, although some believe it to be shorter. The survey shows 321 full time equivalent court staff statewide are devoted to the conservatorship process, with approximately 138 cases per staff per year.

These figures refer to current court activities for conservatorship cases without regard for revisions in job functions which may be necessary to comply with the new legislation. The Office of Court Research recently held all day focus groups with 35 subject matter experts from 12 courts. The experts helped to document every task in a conservatorship case which will now provide a baseline for the general conservatorship case management process.

#### **Item 5            Education and Training Working Group**

After brief discussion of the revised recommendations, the Chair directed all task force members to review the recommendations in detail on their own time, send any comments they might have to the working group lead, and prepare for final discussion/approval at the January 10, 2007 meeting.

#### **Item 6            Best Practices Working Group**

The working group lead presented draft recommendations to the task force. As with Item 5, the Chair directed all task force members to review the recommendations in detail on their own, send comments to the working group lead, and further discussion will be continued at the next meeting (January 10).

#### **Item 7            Timeline**

The task force agreed to finalize all recommendations by the February 14, 2007 meeting, and continue to target presentation of its final report to the Judicial Council at their June 29, 2007 meeting.

#### **Item 8            Other Business**

With no further business, the meeting was adjourned at 3:00 p.m.

*Approved by the Probate Conservatorship Task Force on January 10, 2007.*

